

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<b>MALIBU TEXTILES, INC.,</b>	:	
	:	<b>Docket No. 07-cv-4780 (SAS)</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>FIRST AMENDED COMPLAINT</b>
	:	<b>AND JURY DEMAND</b>
<b>CAROL ANDERSON, INC. and</b>	:	
<b>CABI, LLC,</b>	:	
	:	
<b>Defendants.</b>	:	

Plaintiff Malibu Textiles, Inc. ("Malibu"), by its attorneys Cowan, DeBaets, Abrahams, & Sheppard, LLP, as and for its First Amended Complaint against defendants Carol Anderson, Inc. ("CAI") and CABI, LLC ("CABI") (collectively, "Defendants"), alleges as follows:

**INTRODUCTION**

1. This is an action for copyright infringement arising out of Defendants' willful infringement of three copyrighted lace designs owned and registered by Malibu.

2. As described below, Malibu and Defendants used to be in a business relationship in which Defendants purchased lace fabric from Malibu, including the three copyrighted lace patterns at issue in this case. After the business relationship between Malibu and Defendants ended, Defendants continued to *inter alia* advertise, offer to sell, sell and distribute garments incorporating Malibu's copyrighted lace designs without Malibu's consent. Malibu has learned that Defendants are offering no less than five garments for sale that incorporate Malibu's copyrighted lace designs or contain lace designs that are virtually identical copies of Malibu's copyrighted lace designs.

3. Accordingly, Malibu seeks injunctive and monetary relief for copyright infringement under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

### **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this action pursuant to 17 U.S.C. § 501 (b) and 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendants pursuant to New York CPLR § 302 *et seq.* in that Defendants, upon information and belief, were and are doing business in the State of New York and in this District.

6. Venue is proper within this District pursuant to 28 U.S.C. §§ 1391 and 1400.

### **PARTIES**

7. Malibu is a corporation duly organized and existing under the laws of the State of New York with its principal place of business at 49 West 37<sup>th</sup> Street, New York, New York 10018.

8. Upon information and belief, CAI is a corporation duly organized and existing under the laws of the state of Washington and registered in the State of California with its principal place of business at 18915 Laurel Park Road, Rancho Dominguez, California 90220.

9. Upon information and belief, CABI is a limited liability company duly organized and existing under the laws of the state of California with its principal place of business at 18915 Laurel Park Road, Rancho Dominguez, California 90220.

10. Upon information and belief, Defendants operate a direct sales company offering custom-designed women's apparel. Upon information and belief, Defendants offer women's apparel via the Internet via through its website <http://www.cabionline.com/> and

through sales representatives employed by Defendants, known as “Independent Sales Consultants,” who are located throughout the United States including within the State of New York and this District.

11. Upon information and belief, women’s apparel sold by Defendants, including apparel that infringes upon Malibu’s copyrighted lace designs, has come into the stream of commerce within the State of New York and specifically within this District.

12. Upon information and belief, Defendants transact business within this District, derive substantial revenue from intrastate and interstate commerce, and have committed tortious acts within and outside of this District having injurious consequences to Malibu.

### **FACTS**

13. Malibu is, and has been, prominent in the design and sale of knit fabrics for over 25 years and has earned a reputation in the trade for its original and distinctive fabric and lace designs.

14. Malibu’s fabric and lace designs have been and are being sold by Malibu throughout the United States and within this District.

15. Malibu holds the copyright in an original lace design pattern, created in or around July 2000, known as Pattern #2120, formerly pattern #1967 (the “1967/2120 Pattern”). A photocopy of the 1967/2120 Pattern is attached hereto as Exhibit A.

16. Malibu registered the 1967/2120 Pattern with the United States Copyright Office under Registration No. VA 1-159-155, effective August 26, 2002. A copy of the registration certificate for the 1967/2120 Pattern is attached hereto as Exhibit B.

17. Malibu holds the copyright in an original lace design pattern, created in or around November 2002, known as Pattern #2479, formerly pattern #2351 and Sketch #1088 (the “2479/2351 Pattern”). A photocopy of the 2479/2351 Pattern is attached hereto as Exhibit C.

18. Malibu registered the 2479/2351 Pattern with the United States Copyright Office under Registration No. VA 1-373-475, effective August 31, 2006. A copy of the registration certificate for the 2479/2351 Pattern is attached hereto as Exhibit D.

19. Malibu holds the copyright in an original lace design pattern, created in or around Spring 2003, known as Pattern # 2433 (the “2433 Pattern”). A photocopy of the 2433 Pattern is attached hereto as Exhibit E.

20. Malibu registered the 2433 Pattern with the United States Copyright Office under Registration No. VA 1-373-476, effective August 31, 2006. A copy of the registration certificate for the 2433 Pattern is attached hereto as Exhibit F.

21. Since approximately October 2003, Malibu and Defendants have been engaged in a business relationship in which Malibu sold various styles of lace fabric to Defendants for use in manufacturing women’s clothing.

22. In or around February 2005, Defendants’ representatives and/or agents met with Malibu’s representative to sample Malibu’s fabric and lace designs under the auspices of negotiating a contract to purchase lace fabric to incorporate into their clothing line. Among the textile and lace patterns shown to Defendants’ representatives and/or agents were the 2479/2351 Pattern and the 1967/2120 Pattern (hereinafter, the 2479/2351 Pattern and the 1967/2120 Pattern will collectively be referred to as “Malibu’s Copyrighted Lace Designs”).

23. Again, in July and August 2006, Defendants’ representatives and/or agents met with Malibu’s representative to sample lace designs under the auspices of negotiating

a contract to purchase lace fabric to incorporate into Defendants' clothing line. Among the textile and lace patterns shown to Defendants' representatives and/or agents were Malibu's Copyrighted Lace Designs.

24. Throughout their business relationship, Defendants actually purchased Malibu's Copyrighted Lace Designs. From February 2004 through January 2006, Defendants purchased over 14,000 yards of 2479/2351 Pattern lace fabric from Malibu. Similarly, in February 2005, Defendants purchased a sample of three (3) yards of 1967/2120 Pattern lace fabric from Malibu.

25. Upon information and belief, Defendants continued to manufacture, import, distribute, promote, advertise, offer for sale, sold, and/or cause to be manufactured, imported, distributed, promoted, advertised, offered for sale, and/or sold in this District and elsewhere in the United States, garments incorporating lace patterns which infringe Malibu's Copyrighted Lace Designs after the business relationship between Malibu and CABI ended.

26. Malibu never gave Defendants consent or authorization to use or copy Malibu's Copyrighted Lace Designs beyond the use of the lace fabric sold by Malibu to Defendants.

27. Specifically, Defendants are offering for sale a Lace Top, style number 427, which infringes upon the 2479/2351 Pattern. A photocopy of the infringing garment purchased from Defendants is attached hereto as Exhibit G.

28. Further, Defendants are offering three garments on Defendant's website that infringe upon Malibu's copyrighted 1967/2120 Pattern:

- a. Lace Tunic, style number 488. Screenshots from Defendants' website, <http://www.cabionline.com>, showing the infringing garment are attached hereto as Exhibit H.
- b. Lace Top, style number 490. Screenshots from Defendants' website, <http://www.cabionline.com>, showing the infringing garment are attached hereto as Exhibit I.
- c. Lace Tank, style number 601. Screenshots from Defendants' website, <http://www.cabionline.com>, showing the infringing garment are attached hereto as Exhibit J. (each of the foregoing garments including the Lace Top, style number 427, will collectively be referred to as the "Infringing Garments").

29. On January 29, 2007, counsel for Malibu sent CAI a cease and desist letter demanding *inter alia* that CAI immediately cease and desist from further selling, offering for sale, advertising, promoting, distributing Infringing Garments or making any other use of the 2479/2351 Pattern. Upon learning that Defendants were selling other products that infringed upon Malibu's Copyrighted Lace Designs, counsel for Malibu sent CAI another cease and desist letter on March 29, 2007 again demanding *inter alia* that CAI immediately cease and desist from further selling, offering for sale, advertising, promoting, distributing Infringing Garments or making any other use of Malibu's Copyrighted Lace Designs.

30. To date, Defendants have not complied with the cease and desist letters and continue to offer and advertise Infringing Garments on Defendants' website.

31. Moreover, after the instant action was filed, Malibu learned of yet another Infringing Garment offered by Defendants that infringes upon a different Malibu copyrighted lace pattern.

32. In February and August 2005, CABI purchased a sample of thirteen (13) yards of Malibu's 2433 Pattern lace fabric.

33. In or around September 2007, Malibu learned that that part of Defendants' Fall 2007 line advertised on Defendants' website, the La Belle Dress, Style No. 714, infringes upon Malibu's copyrighted 2433 Pattern. A screenshot from Defendants' website, <http://www.cabionline.com>, showing the infringing garment and a photocopy of the infringing garment purchased from Defendants are attached hereto as Exhibit K.

**COUNT ONE**  
**(Copyright Infringement)**

34. Malibu incorporates by reference each and every allegation contained in paragraphs 1 through 26 above.

35. Defendants' acts described above constitute infringement of Malibu's registered copyrights and exclusive rights under copyright in violation of 17 U.S.C. §§ 106 and 501.

36. Upon information and belief, Defendants, having full knowledge of Malibu's rights as alleged herein, infringed Malibu's Copyrighted Lace Designs by manufacturing, importing, distributing, offering for sale, selling, promoting and/or advertising without Malibu's consent, Infringing Garments incorporating Malibu's Copyrighted Lace Designs.

37. Malibu is therefore entitled to recover damages, which include its actual losses and any and all profits Defendants have made as a result of their infringing conduct.

17 U.S.C. § 504. Alternatively, Plaintiffs are entitled to statutory damages under 17 U.S.C. § 504(c).the maximum statutory damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 with respect to each work infringed, or such other amounts as may be proper under 17 U.S.C. § 504(c).

38. Malibu is entitled to recover damages, which include its actual losses and any and all profits Defendants have made as a result of their infringing conduct. 17 U.S.C. § 504.

39. Alternatively, Plaintiffs are entitled to statutory damages under 17 U.S.C. § 504(c). Moreover, as the foregoing acts of infringement by Defendants have been willful, intentional, purposeful, and in disregard of and with indifference to the rights of Malibu, an award of statutory damages should be enhanced in accordance with 17 U.S.C. § 504(c)(2).

40. Malibu further is entitled to its attorneys' fees and full costs pursuant to 17 U.S.C. § 505.

41. Moreover, Defendants' conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Malibu irreparable injury that cannot be fully compensated by, or measured in, money damages. Malibu has no adequate remedy at law. Accordingly, pursuant to 17 U.S.C. § 502, Malibu is entitled to a preliminary and permanent injunction prohibiting further infringement of Malibu's copyrights and exclusive rights under copyright.

WHEREFORE, Malibu prays that this Court:

A. Preliminarily and permanently enjoin Defendants, their officers, directors, principals, representatives, agents, servants, employees, successors and assigns, and all persons acting in concert or participation with each or any of them, or for them, from:



- (a) copying, or making any unauthorized use of Malibu's Copyrighted Lace Designs, in any form;
- (b) importing, manufacturing, producing, distributing, circulating, selling, offering for sale, advertising, promoting or displaying any promotional material bearing any simulation, reproduction, counterfeit, or copy of Malibu's Copyrighted Lace Designs, or by causing and/or participating in such importation, manufacturing, producing, distributing, circulating, selling, offering for sale, advertising, promoting or displaying any such items;

B. Direct Defendants to deliver for destruction all products in their possession, custody and control that infringe upon Malibu's Copyrighted Lace Designs;

C. Award damages to Malibu in the amount of either all of Malibu's actual damages and Defendants' profits, gains or advantages of any kind resulting from Defendants' copyright infringement; or statutory damages of up to \$150,000 per infringing work as a consequence of Defendants' willful infringement of Malibu's copyrights in Malibu's Copyrighted Lace Designs;

D. Award Malibu the costs of this action together with reasonable attorneys' fees.

E. Award Malibu prejudgment interest on the amount of the award to Malibu, and;

F. Award Malibu such other and further relief as the Court may deem just and proper.


**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Malibu hereby demands trial by jury as to all claims in this litigation.

Dated: New York, New York  
December 26, 2007

Respectfully Submitted,

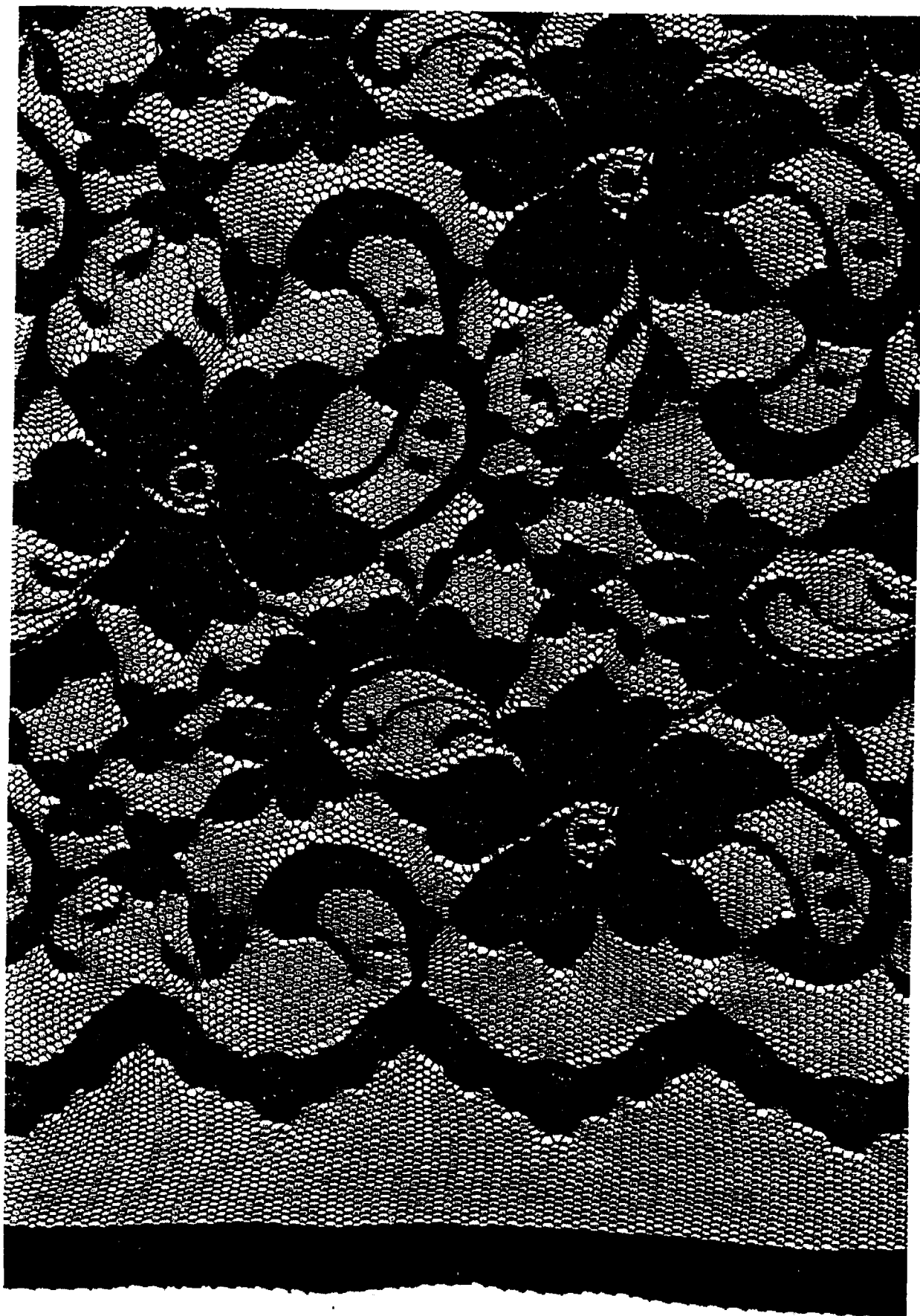
COWAN, DEBAETS, ABRAHAMS, &  
SHEPPARD, LLP

By:   
\_\_\_\_\_  
Nancy E. Wolff (NW 7805)  
Matthew A. Kaplan (MK 5669)  
41 Madison Avenue, 34<sup>th</sup> Floor  
New York, New York 10010  
(212) 974-7474

Attorneys for Plaintiff Malibu Textiles, Inc.

# **EXHIBIT A**

STYLE No.: 2120 COLOR: Black YARDS: Floral Galloon Stretch Lace DESCRIPTION: 70%Stretch Nylon/30%Rayon



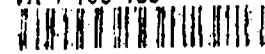
# **EXHIBIT B**

## CERTIFICATE OF REGISTRATION

FORM VA

For a Work of the Visual Arts  
UNITED STATES COPYRIGHT OFFICE

VA 1-159-155



EFFECTIVE DATE OF REGISTRATION

AUG 26 2002

Margaret Peters

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼

Pattern # 1967

NATURE OF THIS WORK ▼

FABRIC DESIGN

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collection work in which the contribution appeared. Title of collection work ▼

If published in a periodical or serial given: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2 a NAME OF AUTHOR ▼

VALIBU TEXTILES, INC.

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR

Citizen of ▼

Domiciled in ▼

USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es) See Instructions

☐ 3-Dimensional sculpture☐ Map☐ Technical drawing☐ 2-Dimensional artwork☐ Photograph☐ Text☐ Reproduction of work of art☐ Jewelry design☐ Architectural work☒ Design on sheetlike material

b NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

Was this contribution to the work a "work made for hire"?

☐ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR

Citizen of ▼

Domiciled in ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es) See Instructions

☐ 3-Dimensional sculpture☐ Map☐ Technical drawing☐ 2-Dimensional artwork☐ Photograph☐ Text☐ Reproduction of work of art☐ Jewelry design☐ Architectural work☐ Design on sheetlike material

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2000

This information must be given in all cases.

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month ▼

Day ▼

Year ▼

USA

Nation ▼

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

valibu Textiles, Inc.  
49 West 37th Street  
New York, NY 10018

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

NOTE ON BACK ►

► Complete all applicable spaces (numbers 5-11) on the reverse side of this page.  
► See the instructions on the back of the form.

DO NOT WRITE HERE

Page 14 of 39

## NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions) For any part of this work that was "made for hire," check "Yes" in the space provided. Give the employer's name, address, and date of birth and death date.

Form VA-159-155  
Copyright Office  
U.S. Dept. of Justice

EXAMINED BY

CHECKED BY

FORM 1A

☐ CORRESPONDENCE  
Yes
FOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼
a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work, complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

TEXTILE DISTRIBUTORS ASSOCIATION, INC.

DA0 19755

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Textile Distributors Association, Inc.

104 West 40th Street

18th Floor

New York, NY 10018

Area code and daytime telephone number ▼ 212-869-6300

Fax number ▼ 212-869-2346

CERTIFICATION\* I, the undersigned, hereby certify that I am the

check only one ►

☐ author☐ other copyright claimant☐ owner of exclusive right(s) Malibu Textiles, Inc.☒ authorized agent of

Name of author or other copyright claimant, or owner of exclusive right(s) ▼

of the work identified in this application and that the statement(s) made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

HELENA F. NEALON

Date ►

5/13/02

Handwritten signature (X) ▼

Mail certificate to:

Name ▼

TEXTILE DISTRIBUTORS ASSOCIATION, INC.

Number/Street/Apt ▼

104 West 40th Street - 18th Floor

City/State/ZIP ▼

New York, NY 10018

Certificate will be mailed in window envelope

## YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

## SEND ALL ELEMENTS IN THE SAME PACKAGE:

1. Application form
2. Nonrefundable \$20 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

## MAIL TO:

Register of Copyrights, Library of Congress  
101 Independence Ave., S.E.  
Washington, D.C. 20559-6000

\* 17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Apr 1997-300 000

PRINTED ON RECYCLED PAPER

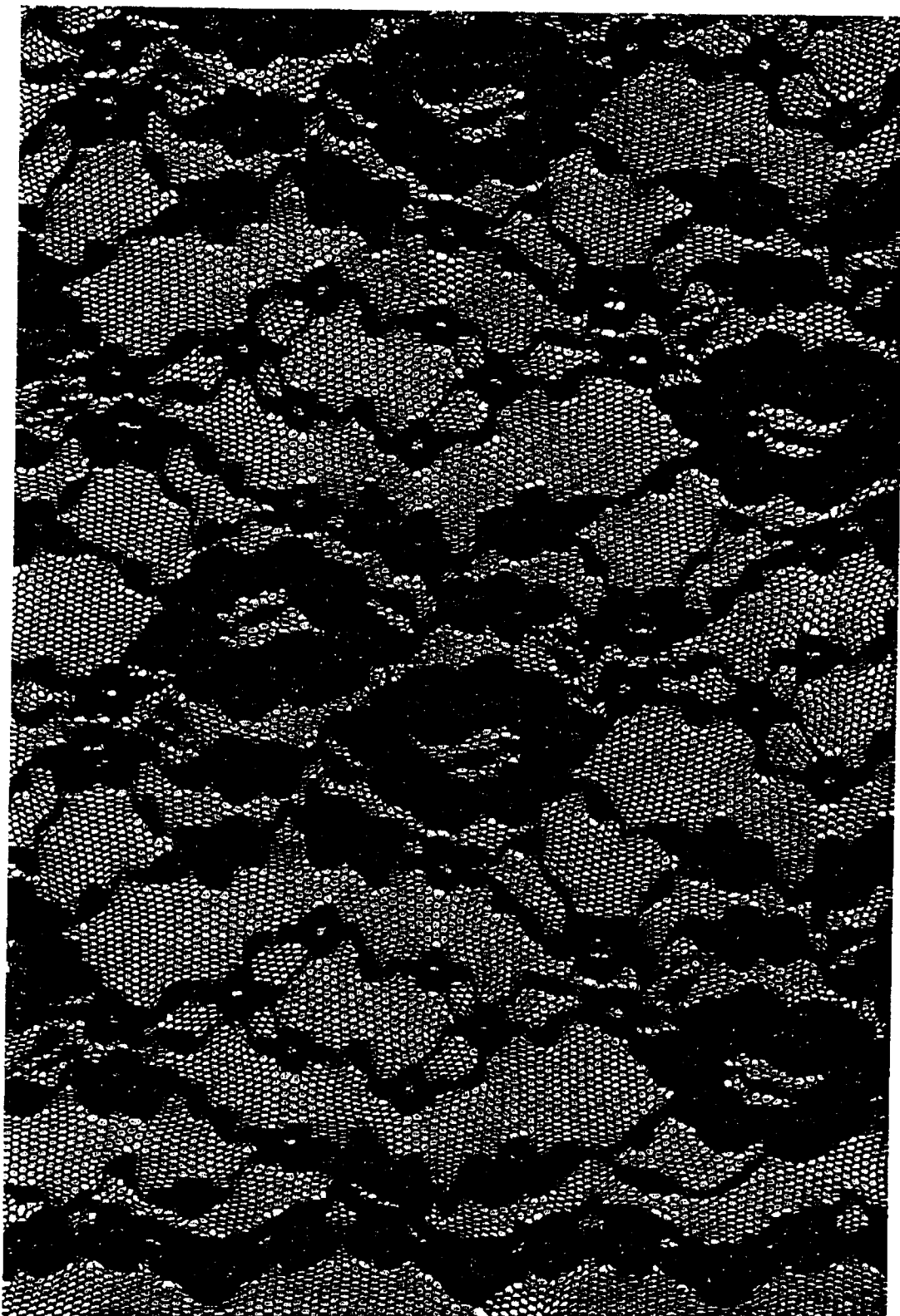
U.S. GOVERNMENT PRINTING OFFICE: 1997-417 752/610

# **EXHIBIT C**



STYLE No.: 2479 COLOR: Black/Black YARDS:

DESCRIPTION: 75% Stretch Nylon/25%Rayon



# **EXHIBIT D**



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
Register of Copyrights, United States of America

FORM VA

For a Work of the Visual Arts

UNI

REG

VA 1-373-475



EFFECTIVE DATE OF REGISTRATION

AUG 31 2006

RATE CONTINUATION SHEET.

**1** TITLE OF THIS WORK ▼ 2351 NATURE OF THIS WORK ▼ See instructions LACE DESIGN

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

**2** a NAME OF AUTHOR ▼ MALIBU TEXTILES, INC. DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☒ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR Citizen of USA  
Domiciled in USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK?  
Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

## NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire," check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions.

- ☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work  
☐ Design on sheetlike material A LACE DESIGN

b NAME OF AUTHOR ▼ DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☐ No

AUTHOR'S NATIONALITY OR DOMICILE  
Name of Country  
OR Citizen of USA  
Domiciled in USA

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK?  
Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions.

- ☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing  
☐ 2-Dimensional artwork ☐ Photograph ☐ Text  
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work  
☐ Design on sheetlike material

**3** a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED 2002 b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK  
Month NOV Day 12 Year 2002  
Country USA

**4** COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. MALIBU TEXTILES, INC.  
49 WEST 37th STREET  
NEW YORK, N.Y. 10018

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATION RECEIVED

AUG 31 2006

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

AUG 31 2006

FUNDS RECEIVED

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-8) on the reverse side of this page.  
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of \_\_\_\_\_ pages

EXAMINED BY

Mark [unclear]

FORM VA

CHECKED BY

☐ CORRESPONDENCE  
Yes
FOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼
a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.  
Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

RICHARD SAMUELS

MALIBU TEXTILES, INC.

49 WEST 37<sup>TH</sup> STREET

NEW YORK, N.Y. 10018

Area Code and Telephone Number ▶ (212) 354-6707

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one ▼

☐ author☐ other copyright claimant☒ owner of exclusive right(s)☐ authorized agent of

MALIBU TEXTILES, INC.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

RICHARD SAMUELS

Date ▶ 8/31/2006



Handwritten signature (X) ▼

Mail certificate to:

Certificate will be mailed in window envelope

Name ▼

MALIBU TEXTILES, INC.

Number/Street/Apt ▼

49 WEST 37<sup>TH</sup> STREET

City/State/ZIP ▼

NEW YORK, N.Y. 10018

## YOU MUST:

- Complete all necessary spaces
- Sign your application in space 9

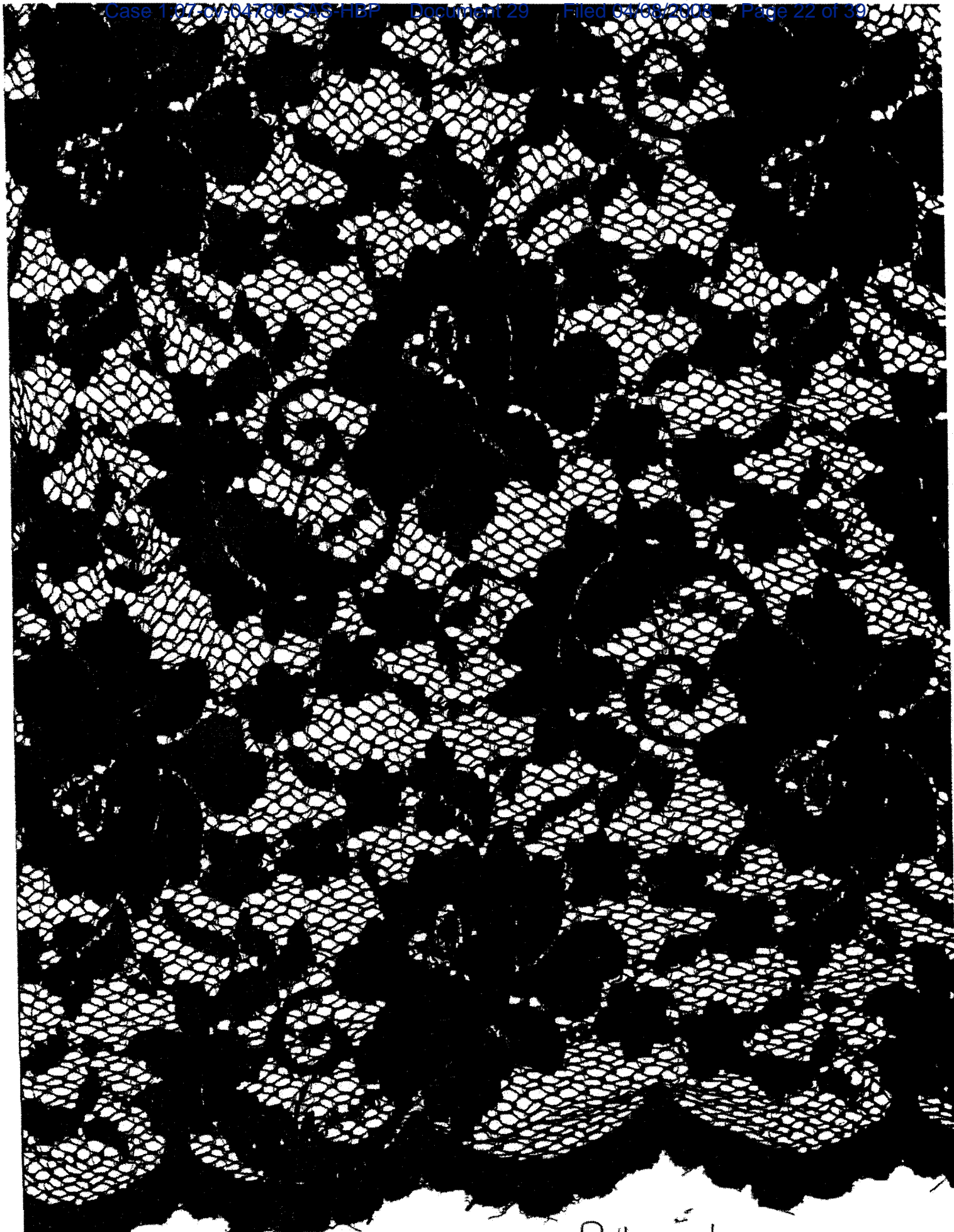
SEND ALL 5 ELEMENTS IN THE SAME PACKAGE

- Application form
- Nonrefundable filing fee 745
- In check or money order payable to Register of Copyrights
- Deposit material

## MAIL TO:

 Register of Copyrights  
Library of Congress  
Washington, D.C. 20540-0000

# **EXHIBIT E**



Pattern # 2433



# **EXHIBIT F**

# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*  
Register of Copyrights, United States of America

For a Work of the Visual Arts  
UNITED STATES COPYRIGHT OFFICE

REG: VA 1-373-476



EFFECTIVE DATE OF REGISTRATION

**AUG 31 2006**

Month Day Year

SEE CONTINUATION SHEET.

**1 TITLE OF THIS WORK**

2433

**NATURE OF THIS WORK** See instructions

LACE DESIGN

**PREVIOUS OR ALTERNATIVE TITLES**

**PUBLICATION AS A CONTRIBUTION** If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work

If published in a periodical or serial give: Volume Number Issue Date On Pages

**2 a NAME OF AUTHOR**

MALIBU TEXTILES, INC.

**DATES OF BIRTH AND DEATH**  
Year Born Year Died

Was this contribution to the work a "work made for hire"?  
☒ Yes  
☐ No

**AUTHOR'S NATIONALITY OR DOMICILE**  
Name of Country  
OR Citizen of  
Domiciled in

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**  
Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No  
If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Check appropriate box(es). See instructions

- ☐ 3-Dimensional sculpture
- ☐ 2-Dimensional artwork
- ☐ Reproduction of work of art
- ☐ Design on sheetlike material
- ☐ Map
- ☐ Photograph
- ☐ Jewelry design
- ☐ Technical drawing
- ☐ Text
- ☐ Architectural work

\* LACE DESIGN

**NAME OF AUTHOR**

**DATES OF BIRTH AND DEATH**  
Year Born Year Died

Was this contribution to the work a "work made for hire"?  
☐ Yes  
☐ No

**AUTHOR'S NATIONALITY OR DOMICILE**  
Name of Country  
OR Citizen of  
Domiciled in

**WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK**  
Anonymous? ☐ Yes ☐ No  
Pseudonymous? ☐ Yes ☐ No  
If the answer to either of these questions is "Yes," see detailed instructions.

**NATURE OF AUTHORSHIP** Check appropriate box(es). See instructions

- ☐ 3-Dimensional sculpture
- ☐ 2-Dimensional artwork
- ☐ Reproduction of work of art
- ☐ Design on sheetlike material
- ☐ Map
- ☐ Photograph
- ☐ Jewelry design
- ☐ Technical drawing
- ☐ Text
- ☐ Architectural work

**3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED**

2003

**DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK**

Month Day Year  
MAY 15 2003

**4 COPYRIGHT CLAIMANT(S)** Name and address must be given even if the claimant is the same as the author given in space 2.

MALIBU TEXTILES, INC.  
44 WEST 37<sup>th</sup> STREET  
NEW YORK, N.Y. 10018

**TRANSFER** If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATOR RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

AUG 31 2006

FUNDS RECEIVED

**MORE ON BACK**

• Complete all applicable spaces (numbers 5-8) on the reverse side of this page.  
• See detailed instructions.  
• Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of pages



CHECKED BY

☐ CORRESPONDENCE  
Yes

FOR  
COPYRIGHT  
OFFICE  
USE  
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

**PREVIOUS REGISTRATION** Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author as copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

**DERIVATIVE WORK OR COMPILATION** Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

**DEPOSIT ACCOUNT** If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.  
Name ▼ Account Number ▼

**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

RICHARD SAMUELS  
MALIBU TEXTILES, INC.  
49 WEST 37<sup>th</sup> STREET  
NEW YORK, N.Y. 10018

Area Code and Telephone Number (212) 354-6707

**CERTIFICATION** I, the undersigned, hereby certify that I am the

check only one ▼

☐ author

☐ owner copyright claimant

☒ owner of exclusive right(s)

☐ authorized agent of

MALIBU TEXTILES, INC.  
Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

RICHARD SAMUELS

Date: 8/31/2006

Handwritten signature (X) ▼

Mail  
certificate  
to:

Certificate  
will be  
mailed in  
window  
envelope

Name ▼

MALIBU TEXTILES, INC.

Number/Street/Apt ▼

49 WEST 37<sup>th</sup> STREET

City/State/ZIP ▼

NEW YORK, N.Y. 10018

**YOU MUST**

- Complete all necessary spaces
- Sign your application in space 8

**SEND ALL PAYMENTS  
IN THE SAME PACKAGE**

1. Application form
2. Nonrefundable filing fee \$45  
in check or money order  
payable to Register of Copyrights
3. Deposit material

**MAIL TO**

Register of Copyrights  
Library of Congress  
Washington, D.C. 20559-6000

# **EXHIBIT G**



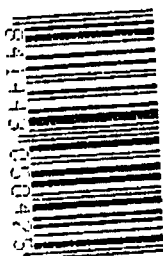
www.cabionline.com



Cabi  
ANDERSON  
CAROL by invitation

1452  
CREME CREME

427  
STYLE  
1387  
LOT  
MED  
SIZE



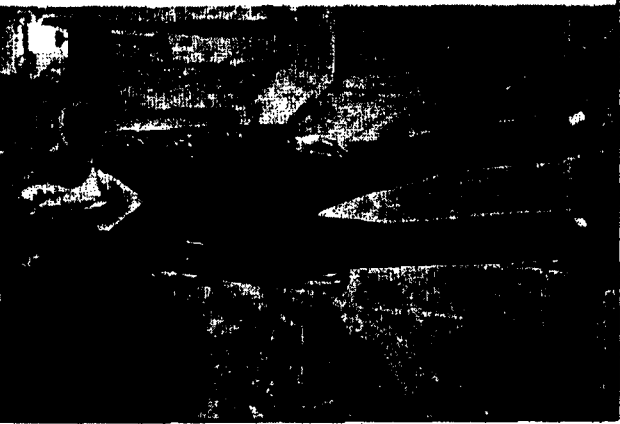
641413 000473

C  
A  
B

# **EXHIBIT H**

[Cabi - Carol Anderson by Invitation ...](#)
[http://www.cabionline.com/SPRNG07/flash\\_index.asp](#)
[Cabi - Carol Anderson by Invitation ...](#)
[http://www.cabionline.com/SPRNG07/flash\\_index.asp](#)
[Cabi - Carol Anderson by Invitation ...](#)
[http://www.cabionline.com/SPRNG07/flash\\_index.asp](#)
[Cabi - Carol Anderson by Invitation ...](#)
[http://www.cabionline.com/SPRNG07/flash\\_index.asp](#)

Cabi

[Rodeo Days](#) [Regatta](#) [City Safari](#) [Sushi Date](#) [Bon Voyage](#) [Fiesta](#) [Shakespeare in the Park](#)


2/5

Close X

**4411 Lace Tunic xs-xl \$68**  
 Stunning lace top with a luxurious satin tie will flatter every figure. The longer length will provide coverage where you need it, yet a hint of skin will show through the sheer lace.  
 Content: 97% Nylon, 3% Spandex.  
 Care: Hand wash cold, dry flat, do not bleach, do not steam.  
 Colors: Ivory

**5333 Goddess of Tank xs-xl \$46**  
 In our signature silky rayon knit, we created a new skin-baring yet bra-friendly silhouette. The v-neck front and back create a vertical line that elongates your neck.  
 Content: 93% Rayon, 7% Spandex.  
 Care: Turn garment inside out, machine wash cold gentle with like colors, do not bleach, do not iron.  
 Colors: Frosting, Caviar, Turquoise

**8771 Contemporary Jean 0-16, Regular and Long \$89**  
 The much-loved fit of our Cabi Contemporary Jean remains the same. Slim through the legs with a small flare at the hem to balance out hips. Exclusive new pocket stitching detail precisely placed to offer the most flattering rear view.  
 Content: 98% Cotton, 2% Spandex.  
 Care: Machine wash cold gentle, tumble dry low, no chlorine bleach, warm iron if needed.  
 Colors: Indigo, White

Next Outfit &gt;

Send to a Friend

&lt; Previous Outfit

Copyright © 2007 Cabi LLC. All Rights Reserved.

[The Collection](#)

[The Designer](#)

[Career Opportunity](#)

[Host a Show](#)

[Purchase](#)

[Co](#)

[Regatta](#)

[City Safari](#)

[Sushi Date](#)

[Bon Voyage](#)

[Fiesta](#)

[Shakespeare](#)



Copyright © 2007 CAbi

# **EXHIBIT I**







The Collection

The Designer

Career Opportunity

Host a Show

Purchase

Co

Regatta



City Safari



Sushi Date



Bon Voyage



Fiesta



Shakespeare i



Copyright © 2007 C.Abr

# **EXHIBIT J**



32

close,

955 px-sx jul 1 2001 1 (19)

601) Lace Tank SS-58 \$56  
The pretty, stretch lace, scalloped- neckline top is beautiful in a delicate shade of frosting pink. The v-neck elongates and the empire waistline sits just at the bust line for an illusion of a longer torso. Fully-lined so there's no need to worry about what to wear underneath.

Canoe Self - 57 lbs. Nicks - 200 lbs. Spander - 1 min. - 1000 lbs. 1000 lbs.  
Canoe Hard work sold, dry flat, do not break, do not break  
Colors: Fading

File Crapped Part 0-16 \$78

4951 Clipped: Panel Q-16 \$78  
A style that has already proven to flatter everyone, our cropped pant is back by popular demand. Clean lines with back flap pockets and exaggerated side slits at ankle. Cotton/linen blend drapes beautifully with a touch of spandex for great fit.

Caring for 75% (other, 23%) linen, 2% spandex  
 Care: Dry clean only  
 Colors: Navy, Grey 

10

**Next Order**

**Send to 2 Friends**

**< Previous Output**

Completed by: \_\_\_\_\_ Date: \_\_\_\_\_

[The Collection](#)

[The Designer](#)

[Career Opportunity](#)

[Host a Show](#)

[Purchase](#)

[Contact](#)

[Festival of the Arts](#)

[Starlight Theatre](#)

[All Dressed Up](#)



Copyright © 2007 C Abi

# **EXHIBIT K**



Close X

1 this exquisite  
at the arms  
aloped lace  
tal band at waist  
nels of the skirt

00% Polyester  
ach

Next Outfit >

